

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 98-584

April 30, 1999

MAINE PUBLIC SERVICE COMPANY
Petition for Sale of Generating Assets

ORDER ON MOTION
TO AMEND

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

Maine Public Service Company (MPS), on its own behalf and on behalf of WPS Power Development, Inc., has moved for reconsideration of the Order in this case approving divestiture, dated April 5, 1999. Basically, MPS has requested that we amend the Order by making further specific findings under 35-A M.R.S.A. § 3204(8), beyond those made in the initial order. For the reasons set forth below, we grant the motion.

We have now been supplied with certain additional Private and Special Laws under which Maine Public Service and its predecessors were granted rights necessary to the ownership or operation of MPS' generating assets. These laws are as follows:

Necessary to the Millinocket Lake Storage Dam

P.& S.L. 1943, ch. 84, which authorizes a specific height of water at the Millinocket Lake Dam.

Necessary to the Caribou Dam

P.& S.L. 1887, ch. 237, which authorized MPS' predecessor to construct the Caribou Dam for purposes of water storage.¹

P.& S.L. 1893, ch. 237, granting electrical generation rights to MPS' predecessor at Caribou.

P.& S.L. 1895, ch. 92, granting electric generation rights to MPS' predecessor at Caribou.

P.& S.L. 1935, ch. 15 granting electrical generation rights to MPS' predecessor at Caribou.

¹Rights to supply public water were also granted by this law, but are not pertinent to this proceeding because they were transferred to Caribou Water Works Corporation in 1943.

P.& S.L. 1917, ch. 203, § 7, authorized Gould Electric Company (now MPS) to purchase the rights and franchises of other utilities; MPS purchased the Caribou Dam in 1943 and since then has exercised rights at Caribou under this law and under the above laws.

The Commission makes the following factual findings:

Millinocket Lake Dam

Rights under P.&S.L. 1943, ch. 84 authorize a specific heights of water at the Millinocket Lake Dam. Therefore, they themselves are generation assets required to be divested under the electric utility divestiture statute and are necessary to the ownership and operation of the assets at Millinocket Lake which are required to be divested under that statute.

Caribou Dam

The rights under the Private and Special laws, P.& S.L. 1887, ch. 237; P.& S.L. 1893, ch. 380; P.& S.L. 1895, ch. 92; and P.& S.L. 1935, ch. 15 authorize ownership, construction and operation of the Caribou Dam for electrical power generation. Therefore, they themselves are generation assets required to be divested under the electric utility divestiture statute and are necessary to the ownership and operation of the assets at Caribou which are required to be divested under that statute.

MPS's right to acquire other utilities under P.&S.L. 1917, ch. 203, § 7, enable it today to exercise the rights of its predecessors at Caribou set forth in the above laws. Therefore, to that extent they also are necessary to the operation of the Caribou Dam and are generation assets required to be divested under 35-A M.R.S.A. § 3204 state and are necessary to the ownership and operation of the assets at Caribou which are required to be divested under the same statute.

Maine Public Service Company will retain all those Private and Special Law rights related to distribution and transmission of electricity.

Accordingly, we

O R D E R

That the above factual findings supplement the Order of April 5, 1999 in this case.

Dated at Augusta, Maine, this 30th day of April, 1999.

BY ORDER OF THE COMMISSION

Raymond Robichaud
Assistant Administrative Director

COMMISSIONERS VOTING FOR: Welch
Nugent
Diamond

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Civil Procedure, Rule 73, et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.